

RENEWED PETITION PURSUANT
TO 37 C.F.R. § 1.181(a) FOR
THE WITHDRAWAL OF THE HOLDING
OF ABANDONMENT...
Application SN 10/577,970

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Customer No. 01933

Action dated November 13, 2007 was not received by the attorneys of record. Said PETITION set forth the background facts and provided evidence that the Office Action dated November 13, 2007 had not been entered into the permanent mail log in which all papers from the USPTO which require a response are logged. The DECISION ON PETITION dated August 4, 2008 did not question the evidence concerning the incoming mail log but stated the following:

"However, Petitioner has failed to either describe the docketing system that Petitioner has in place or establish that it is sufficiently reliable.

"Moreover, Petitioner has not provided a copy of the master docket for the firm, or state that no such master docket exists."

Senior Attorney Paul Shanoski is thanked for the supplemental information during a telephone conversation on September 25, 2008, that a description of the procedure used to docket the dates on which Office Actions and other papers received from the USPTO which require a response are docketed,

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and suggested that this description of the docketing procedure should be by the person making the docket entries. The attached DECLARATION OF SUBRINA DOOKIE dated October 2, 2008, the firm's docket clerk, is made a part hereof.

Mrs. Dookie's DECLARATION explains that she makes an entry of mail from the USPTO which requires a response in the incoming mail log which is a spiral notebook into which pages cannot be added (or replaced). She then enters the data in a page of an annual bound diary docket on the date in which the term for responding ends and enters the data in the firm's PATTSY computer docket system. The file is then given to the secretary of the attorney in charge of that application. At the end of each month, Mrs. Dookie generates "green" docket sheets from the PATTSY computer docket system which identifies all USPTO responses due during the following month for each attorney, and then cross-checks these green docket sheet entries against the daily entries in the diary docket for the same month. The "green" sheets are then given to the respective attorney's secretary.

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My secretary also maintains a non-permanent docket in which the term for responding to a USPTO paper is entered on a movable docket strip which identifies the application and the end of the response term date. These movable docket strips are maintained in a folder designed for maintaining said movable docket strips in due date order. When a Response has been transmitted to the USPTO, the strip is removed. The date on which the Response is transmitted to the USPTO is entered on the green sheet. If instead of responding, the application is abandoned or the term for responding is extended, this information is entered on the green sheet. The green sheets are returned to Mrs. Dookie at the end of the month and she enters the appropriate information in the PATTSY computer docket system and the diary docket.

The PETITION filed June 19, 2008, enclosed copies of the incoming mail log for the work days November 13, 2007 through February 13, 2008, as evidence that the Office Action mailed November 13, 2007 was not received in our office. Mrs. Dookie's DECLARATION states that after she makes the entries in the incoming mail log and in the annual bound diary, and that if the November 13, 2007 Office Action had been received, it would have been identified on the December 13, 2007 page of the annual bound

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diary. A copy of said page is attached to Mrs. Dookie's DECLARATION. The application which is the subject of this RENEWED PETITION is not identified therein. Mrs. Dookie's DECLARATION also states that she would make an entry of the Office Action in the firm's PATTSY computer docket system, and that said docket system generates monthly "green" sheets for each attorney for USPTO matters having a response date during that month. Mrs. Dookie's DECLARATION attaches a copy of my "green" sheet for the month of December 2007. It does not identify our docket number 06303/HG. It is respectfully submitted that the foregoing establishes that the Office Action of November 13, 2007 was not received.

The present papers have been prepared taking into consideration the procedure and discussion set forth in MPEP 711.03(c)I.A. It is respectfully submitted that the present showing fully supports a decision to withdraw the holding of abandonment on the ground that the Restriction Requirement/Election dated November 13, 2007 was not received by applicants' attorneys. Such a holding is solicited. It is further respectfully submitted that the above-identified patent application has not been abandoned for an excessive period of

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time before the filing of the present PETITION and accordingly, a Terminal Disclaimer is not required.

Since the Restriction Requirement/Election dated November 13, 2007 was not received by mail in the office of the undersigned, it is respectfully requested that a new Restriction Requirement/Election carrying a new Patent Office mailing date be issued by the USPTO.

It is further respectfully submitted that there should be no fee in connection with this Petition for Withdrawal of the Holding of Abandonment. However, if it is deemed that a fee is required, please charge any required Petition fee against Account No. 06-1378.

Favorable action on this Petition to withdraw the holding of Abandonment and to issue a new Restriction Requirement/Election is respectfully requested.

Respectfully submitted,



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